CHAPTER 18
S.B. No. 230
AN ACT
relating to the applicability of state law governing funds transfers to certain remittance transfers.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 4A.108, Business & Commerce Code, is amended to read as follows:

Sec. 4A.108. RELATIONSHIP TO ELECTRONIC FUND TRANSFER ACT [EXCLUSION OF CONSUMER TRANSACTIONS GOVERNED BY FEDERAL LAW]. (a) Except as provided in Subsection (b), this chapter does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act, 15 U.S.C. Sec. 1693 et seq., as amended from time to time.

(b) This chapter applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. Sec. 1693o-1), as amended from time to time, unless the remittance transfer is also an electronic fund transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. Sec. 1693a), as amended from time to time.

(c) In a funds transfer to which this chapter applies, in the event of an inconsistency between the applicable provision of this chapter and an applicable provision of the Electronic Fund Transfer Act, the applicable provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.

SECTION 2. This Act takes effect September 1, 2013.

Passed the Senate on March 13, 2013: Yeas 31, Nays 0; passed the House on April 25, 2013: Yeas 133, Nays 3, two present not voting.

Approved May 10, 2013.
Effective September 1, 2013.

CHAPTER 19
S.B. No. 244
AN ACT
relating to the administration, operation, supervision, and regulation of credit unions.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 15.403, Finance Code, is amended to read as follows:

Sec. 15.403. SUPERVISION AND REGULATION OF CREDIT UNIONS. (a) The commissioner shall supervise and regulate a credit union doing business in this state, other than a federal credit union, in accordance with this chapter and Subtitle D, Title 3, including rules adopted under this chapter and Subtitle D, Title 3.

(b) To the extent necessary to the department’s authority to supervise and regulate credit unions under this chapter and Subtitle D, Title 3, the commissioner may require each credit union to conduct business in compliance with federal laws that apply to credit unions.

SECTION 2. Subsection (d), Section 15.409, Finance Code, is amended to read as follows:
(d) The department shall periodically notify the person filing the complaint and each person who is the subject of the complaint of the status of the complaint until final disposition.

SECTION 3. Subchapter E, Chapter 15, Finance Code, is amended by adding Section 15.4111 to read as follows:

Sec. 15.4111. REGULATORY COORDINATION. To ensure effective coordination among and between the department and other state and federal agencies, the commissioner and those agencies may enter into cooperative, coordinating, or information-sharing agreements that are necessary or proper to enforce the state or federal laws applicable to credit unions.

SECTION 4. Subsection (c), Section 122.008, Finance Code, is amended to read as follows:

(c) Acceptance of a certificate of incorporation by the credit union is conclusive evidence that the credit union is authorized to do business under this subtitle.

SECTION 5. Section 122.012, Finance Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) A credit union shall provide [After notifying] the commissioner with written notice not later than the 30th day before the date that the credit union establishes [in writing, a credit union may establish and maintain, at locations other than its principal place of business,] additional offices or service facilities. A new office or service facility must be [that are] reasonably necessary to provide services to the credit union’s members. The credit union shall additionally notify the commissioner in writing not later than the 10th business day after [of] the date that the new office or service facility begins operating. For purposes of this subsection, an unmanned teller machine is not considered a service facility.

(d) In accordance with rules adopted by the commission and after notifying the commissioner in writing, a credit union may close any office or service facility, provided that the credit union designates and maintains an office as its principal place of business in this state.

SECTION 6. Subsections (a) and (c), Section 122.013, Finance Code, are amended to read as follows:

(a) A foreign credit union may do business in this state if it is organized in a state or country that allows any [a] credit union organized under this subtitle to do business in that state or country.

(c) The commissioner may suspend or revoke a foreign credit union’s authority to do business in this state if the commissioner finds that the foreign credit union:

(1) has failed to conduct its business in this state in a manner consistent with the laws of this state [violated a rule adopted under this subtitle];

(2) is in an unsafe or unsound condition;

(3) refuses to comply with an order of the commissioner [is engaged in a pattern of unsafe or unsound practices]; [or]

(4) refuses to comply with a request by the commissioner to review the books and records of the credit union; or

(5) has not met or does not meet a [commission] requirement imposed by commission rules.

SECTION 7. Subchapter A, Chapter 122, Finance Code, is amended by adding Section 122.0131 to read as follows:

Sec. 122.0131. TEMPORARY FOREIGN CREDIT UNION OFFICE. If a state contiguous to this state experiences an emergency, on a request by that state’s credit union regulatory agency, the commissioner may authorize one or more credit unions located in that state to open temporary offices in this state to more promptly restore credit union services to their members. The commissioner shall issue an order permitting the temporary office and specifying the period the office may remain open. On a finding that the conditions requiring the temporary office continue to exist, the commissioner may extend the period the office may remain open. A credit union may convert a temporary office
authorized under this section to a permanent location and operate as a foreign credit union if it qualifies to do business in this state as a foreign credit union under Section 122.013 and commission rules.

SECTION 8. Subsection (f), Section 122.053, Finance Code, is amended to read as follows:

(f) A director may not vote by proxy. A director may participate in and act at any meeting of the board by means of electronic communications equipment through which all persons participating in the meeting can communicate with each other. Participation in a meeting in the manner authorized by this subsection constitutes attendance at a meeting.

SECTION 9. Subsections (a) and (c), Section 122.056, Finance Code, are amended to read as follows:

(a) The board may appoint not more than six individuals to serve at the board's pleasure as honorary or advisory directors to advise and consult with the board and otherwise aid the board in carrying out the board's duties and responsibilities.

(c) An honorary or advisory director may participate in any board deliberation. Except as otherwise provided by Section 125.402(c), an honorary or advisory director shall hold in confidence all information the director receives about a credit union during the director's service.

SECTION 10. Subsection (a), Section 122.060, Finance Code, is amended to read as follows:

(a) A credit union shall submit to the commissioner, in a form approved by the department, a certificate of election that states the name and address of each officer, director, and committee member elected or appointed. The certificate must be filed within the time prescribed by the commissioner and not later than the 20th day after the date of the annual organizational meeting of election or appointment of any interim officer, director, or committee member, shall file a copy of the certificate of election with the department.

SECTION 11. Section 122.061, Finance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) While serving as a director, honorary director, advisory director, committee member, officer, or employee of a credit union, a person may not:

(1) participate, directly or indirectly, in the deliberation on or determination of a question affecting the person's pecuniary interest or the pecuniary interest of a member of the person's immediate family or of a partnership, association, or corporation, other than the credit union, in which the person is directly or indirectly interested; or

(2) become employed by, engage in, or own an interest in a business or professional activity that the person could reasonably expect to:

(A) require or induce the person to disclose confidential information acquired because of the person's office or employment in the credit union; or

(B) impair the person's independence or judgment in the performance of the person's duties or responsibilities to the credit union.

(c) In this section, "member of a person's immediate family" means a person's spouse or another person living in the person's household.

SECTION 12. Section 122.064, Finance Code, is amended to read as follows:

Sec. 122.064. INDEMNIFICATION. A credit union may elect to indemnify a director, officer, employee, or agent of the credit union or another person and to purchase insurance as if the credit union were an "enterprise" as defined by Section 8.001, Business Organizations Code, under and subject to the credit union's bylaws and written policy. A credit union may not provide any indemnification or insurance that would not be permissible under Chapter 8, Business Organizations Code, but may elect to impose the credit union's own limitations on indemnification;
(1) by adopting the indemnification and insurance procedures of Section 2.22A, Texas Non-Profit Corporation Act (Article 1396-2.22A, Vernon's Texas Civil Statutes); or
(2) in another manner determined by the board.

SECTION 13. Subsections (a) and (b), Section 122.101, Finance Code, are amended to read as follows:

(a) A credit union shall prepare [submit to the department on] a quarterly [basis a] call report, in a manner approved [on a form supplied] by the department, that states the credit union's financial condition. The commissioner may require a credit union to file additional financial reports.

(b) The credit union must submit the call report on or before the due date prescribed [stated on the form supplied] by the department. If a credit union does not submit a report by the due date, the commissioner shall charge a late fee in an amount set by the commission for each day the report remains unfiled. The commissioner for good cause shown may waive all or part of the late fee.

SECTION 14. Section 122.201, Finance Code, is amended to read as follows:

Sec. 122.201. CONVERSION OF STATE CREDIT UNION TO FEDERAL CREDIT UNION. (a) A credit union organized under the laws of this state may convert to a credit union under the laws of the United States:

(1) on an affirmative vote by a majority of the members voting at a meeting called for that purpose; and
(2) by complying with any rule adopted by the commission to facilitate the conversion.

(b) On the issuance of a charter by the National Credit Union Administration, the credit union:

(1) ceases to be a credit union incorporated under this subtitle; and
(2) is no longer subject to the supervision and regulation of the commissioner and department.

(c) The converted credit union shall file with the commissioner a copy of the charter issued to the credit union by the National Credit Union Administration. Failure to file the required copy of the charter does not affect the validity of the conversion.

SECTION 15. Section 123.106, Finance Code, is amended to read as follows:

Sec. 123.106. CHANGE OF LOCATION. (a) A credit union changing the location of [may change] its principal place of business or any additional office or service facility shall notify [a subsidiary place of business to another location by notifying] the commissioner in writing of the new location [address] and the scheduled or effective date of the change.

(b) The credit union must submit notice to the commissioner not later than the 30th day before the scheduled or effective date of the change. The commissioner may waive or reduce the timing of the notice requirement under this subsection.

SECTION 16. Section 124.002, Finance Code, is amended to read as follows:

Sec. 124.002. LIMITATIONS ON INTEREST RATES. The interest rate on a loan to a member may not exceed:

(1) 1–1/2 percent per month on the unpaid balance; or
(2) 28 percent a year to the extent that federal credit unions are permitted to charge that rate; or
(3) a higher rate authorized by law, including a rate authorized by Chapter 303.

SECTION 17. Section 125.402, Finance Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The commission may adopt reasonable rules relating to the:

(1) permissible disclosure of nonpublic personal information about [confidentiality of] the accounts of credit union members; and
(2) duties of the credit union to maintain [that] confidentiality of member accounts.
(d) The directors, officers, committee members, and employees and any honorary or advisory directors of a credit union shall hold in confidence all information regarding transactions of the credit union, including information concerning transactions with the credit union's members and the members' personal affairs, except to the extent necessary in connection with making, extending, or collecting a loan or extension of credit, or as otherwise authorized by this section, commission rules adopted under Subsection (c), or other applicable law.

SECTION 18. Subsections (c) and (e), Section 126.002, Finance Code, are amended to read as follows:

(c) The commissioner may disclose the information described by Subsection (a) to a law enforcement agency, a share insuring organization, or another department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines that disclosure is necessary or proper to enforce the laws of this state applicable to credit unions.

(e) Confidential information that is provided by the department to a credit union, organization, or service provider of a credit union, whether in the form of a report of examination or otherwise, is the confidential property of the department. The recipient or an officer, director, employee, or agent of the recipient may not make the information public and may not disclose the information to a person not officially connected to the recipient as an officer, director, employee, attorney, auditor, or independent auditor, except as authorized by rules adopted under this subtitle. A credit union may disclose a report of examination or relevant portions of the report to another credit union proposing to merge or consolidate with the credit union or to a fidelity bond carrier if the recipient executes a written agreement not to disclose information in the report.

SECTION 19. Section 126.101, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) The board may:

1. agree in writing to a conservatorship order; and
2. waive its right to appeal the order under Section 126.105.

SECTION 20. Subsections (b) and (c), Section 126.102, Finance Code, are amended to read as follows:

(b) Service may be by mail if an officer or director is not available for service on the date personal service of the order is attempted.

(c) Service by [certified or registered mail];

[4] must be by certified or registered mail, must be addressed to the credit union at the address shown for its principal office by department records and to the home address of the chairman of the board,[i] and

[i] is complete on deposit of the order in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

SECTION 21. Subsections (a) and (b), Section 126.105, Finance Code, are amended to read as follows:

(a) Unless the board waives its right to appeal under Section 126.101(c), the board may file a written appeal of the conservatorship order with the commissioner not later than the 10th business day after the date the order is served as provided by Section 126.106. The appeal must include a certified copy of the board resolution and must state whether the board requests a hearing.

(b) If the board requests a hearing, the commissioner shall promptly request from the State Office of Administrative Hearings a hearing date that is not earlier than the 11th day nor later than the 30th day after the date on which the commissioner receives the appeal.

SECTION 22. Section 126.106, Finance Code, is amended to read as follows:

Sec. 126.106. FAILURE TO APPEAL [FILE REPLY] OR APPEAR [REQUEST HEARING]. [a] If the board does not appeal [file a reply to] the conservatorship order or
fails to [as required by Section 126.104 or fails to request and] appear at the hearing provided for by Section 126.105, the credit union is presumed to have consented to the commissioner's disposition action, and the commissioner may dispose of the conservatorship matter as the commissioner considers appropriate.

(b) The credit union is presumed to have consented to the commissioner's disposition action and may not contest it.

SECTION 23. Section 126.201, Finance Code, is amended to read as follows:

Sec. 126.201. LIQUIDATION ORDER; APPOINTMENT OF LIQUIDATING AGENT.
(a) After the commissioner has issued a conservatorship order and provided an opportunity for hearing, the commissioner by liquidation order may appoint a liquidating agent and direct that the credit union be liquidated if:
(1) the board requests issuance of a liquidation order and liquidation of the credit union;
(2) the credit union otherwise consents to the liquidation; or
(3) the commissioner:
   (A) finds that the closing of the credit union and the liquidation of the credit union's assets are in the public interest and the best interest of the credit union's members, depositors, and creditors; and
   (B) determines that the credit union is not in a condition to continue business and cannot be rehabilitated as provided by this chapter.
(b) If the board consents to the liquidation order and waives the necessity of a conservatorship order, the commissioner may issue a liquidation order without first issuing a conservatorship order.

SECTION 24. Section 126.455, Finance Code, is amended to read as follows:

Sec. 126.455. VOTE ON VOLUNTARY LIQUIDATION. At a special meeting called to consider the proposed liquidation, a majority of the credit union members voting, but not less than a quorum, may vote to dissolve and liquidate the credit union. Those members casting votes by mail or at the meeting constitute a quorum for the transaction of business at the special meeting, notwithstanding a bylaw provision to the contrary.

SECTION 25. Section 126.104, Finance Code, is repealed.

SECTION 26. This Act takes effect September 1, 2013.

Passed the Senate on March 13, 2013: Yeas 31, Nays 0; passed the House on April 25, 2013: Yeas 132, Nays 4, two present not voting.

Approved May 10, 2013.
Effective September 1, 2013.

CHAPTER 20

S.B. No. 293

AN ACT
relating to the authority of certain water districts to hold meetings by teleconference or videoconference.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter F, Chapter 551, Government Code, is amended by adding Section 551.131 to read as follows:

Sec. 551.131. WATER DISTRICTS. (a) In this section, “water district” means a river authority, groundwater conservation district, water control and improvement district, or other district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.
(b) This section applies only to a water district whose territory includes land in three or more counties.